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GE TRANSPORTATION SYSTEMS
GLOBAL SIGNALING, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO BAY AREA RAPID
TRANSIT DISTRICT,

Plaintiff,

vs.

GE TRANSPORTATION SYSTEMS
GLOBAL SIGNALING, LLC,

Defendant.

AND RELATED COUNTERCLAIM

Case No. C 06-3749 JSW

**STIPULATED REQUEST AND
~~PROPOSED~~ ORDER MODIFYING
PRETRIAL AND TRIAL
SCHEDULE**

Judge: Hon. Jeffrey S. White

Complaint Filed: June 13, 2006
Trial Date: October 5, 2009

Pursuant to Civil Local Rules 6-2 and 7-12, Plaintiff and Counterdefendant San Francisco Bay Area Rapid Transit District (“BART”) and Defendant and Counterclaimant GE Transportation Systems Global Signaling, LLC (“GETS”) hereby stipulate and request that the Court modify the pre-trial and trial schedule set forth in its January 6, 2009 Order. The parties have been diligent in pursuing pre-trial discovery in this matter. Under the direction of the Special Master and with two prior extensions granted by the Court in its March 26, 2008 and January 6, 2009 Orders, counsel for GETS and BART have proceeded based upon the Court’s approved discovery plan and revised schedule, and are now nearing completion of fact discovery. Despite the parties’ best efforts, however, a relatively short extension of the fact and expert discovery deadlines, and corresponding extension of the dispositive motion and trial dates, is requested to permit the parties to complete discovery and adequately prepare for trial.

The Special Master, the Honorable William Bettinelli, joins the parties in requesting an adjustment of the dispositive motion and trial schedule. The Special Master has found that the parties have made substantial progress, but that a further extension of time is necessary for the parties to complete their on-going document production and deposition efforts as addressed and directed in the Special Master’s prior orders, to prepare to disclose expert witnesses and to accommodate the unexpected medical leave of a key member of GETS’ legal team. *See* Discovery Order Nos. 9 and 10, issued April 15, 2009 and April 23, 2009, respectively (Attached as Exhs. A and B).

The parties have made substantial and good faith progress with regard to factual discovery in this highly complex matter, but a further and relatively short, extension of time is necessary for the parties to complete their on-going discovery efforts. As the Special Master has been aware, BART is currently engaged in the process of locating specific and critical documents responsive to GETS’ outstanding requests for cost and damages documents from among tens of thousands of boxes of documents stored at various BART locations. While the parties are diligently pursuing and cooperating in this process, as well as the scheduling of depositions and related written discovery, the parties anticipate that they need an additional four weeks to obtain, copy and review these documents and to permit analysis of these documents and the formulations of

1 opinions by their respective experts.

2 Beyond the on-going document and deposition scheduling process, on March 23, 2009,
3 one of the principal attorneys representing GETS since the inception of this matter, Carl Switzer,
4 took emergency medical leave that is expected to last until mid-May. While GETS has enlisted
5 the assistance of other counsel and is diligently proceeding with the discovery process noted
6 above, the unexpected loss of a key member of GETS' legal team has hampered its ability to
7 adequately prepare for and meet related fact and expert discovery deadlines in this matter. As a
8 result, GETS requests this relatively short extension to the discovery schedule to accommodate
9 Mr. Switzer's sudden medical leave, to which BART has agreed.

10 Because the extension to the discovery schedule would also impact subsequent pre-trial
11 and trial deadlines in this matter, the parties request an extension of the relevant pre-trial and trial
12 deadlines from this Court. Indeed, the extension of the fact discovery and expert discovery
13 deadlines, without a corresponding continuance of the trial date, significantly reduces the time the
14 Court's case management order originally allocated to the time between the close of discovery
15 and trial. It would be beneficial to the parties and to the Court to allow sufficient time between
16 the close of discovery and trial so that all dispositive motion and other pretrial proceedings be
17 handled as efficiently as possible. In that regard, the parties note that the Court's order of March
18 26, 2008 (Docket No. 70) set a fact discovery close date of February 28, 2009 and trial date of
19 October 5, 2009 – allowing a period of 219 days for all the post-fact discovery proceedings. The
20 parties believe that this amount of time was selected because of complexity of certain issues
21 presented by the litigation. The new fact discovery deadline narrows this period to just 146 days,
22 which would not – without adjustment of the trial date – allow a comparable and adequate time
23 for pre-trial activities.

The parties have accordingly met and conferred and, with the assistance of the Special Master, stipulated to the proposed pre-trial and trial schedule, subject to the approval of the Court, as set forth below:

- Close of fact discovery: May 12, 2009
- Last day for expert disclosures: June 24, 2009
- Rebuttal expert disclosures: July 21, 2009
- Dispositive motion deadline: August 31, 2009 (June 12, 2009*)
- Opposition briefs to dispositive motions: September 21, 2009 (July 2, 2009*)
- Reply briefs in support of dispositive motions: October 5, 2009 (July 17, 2009*)
- Dispositive motion hearing: October 30, 2009 at 9:00 a.m. (July 31, 2009*)
- Jury Trial: (November 16, 2009 or thereafter*) February 1, 2010 at 8:00 a.m.

* = Proposed Dates

Pretrial conference: January 11, 2010 at 2:00 p.m.

IT IS SO STIPULATED

DATED: April 30, 2009

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1 DATED: April 30, 2009


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3 By: /s/ James A. Bruen
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GE TRANSPORTATION SYSTEMS
GLOBAL SIGNALING, LLC

8 PURSUANT TO STIPULATION, IT IS SO ORDERED,

11 DATED: May 1, 2009


HONORABLE JEFFREY S. WHITE
United States District Judge